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#13/Letter

Sent By: Ernest A. Beutler, Attorney at ; 949 717 4825;

Aug-20-03 10:15AM;

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Hawkins

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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: Shiro Adaeda  
Tatsuya Anma  
Hideaki Takahashi

App. No.: 09/778338

Filed: February 7, 2001

Title: MULTIPOLAR MAGNET TYPE  
GENERATOR FOR INTERNAL  
COMBUSTION ENGINES

Art Unit: 2834

Conf. No: 1468

I hereby certify that this correspondence and all  
marked attachments are being deposited with  
the United States Patent Office via fax to (703)  
872-9319 and (703) 308-7725 on:  
August 20, 2003

Ernest A. Beutler  
Reg. No. 19901

FAX RECEIVED

AUG 21 2003

GROUP 2800

## REQUEST FOR CLARIFICATION AND SUPERVISORY REVIEW

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This case was finally rejected on August 22, 2002 nearly one year ago. Applicants felt that that rejection was wrong, and filed a Notice of Appeal with a certificate of mailing on October 8, 2002, which was received in the USPTO on October 15, 2002.

Applicants filed their Appeal Brief timely under a certificate of mailing on December 2, 2002, which was received in the USPTO on December 9, 2002.

Not until over three months later did the Examiner mail his Brief on March 12, 2003. In that answer he totally changed his position, by for the first time relying on four new, previously uncited references and did not even have the courtesy to provide applicants with copies of those newly cited references.

Applicants therefore filed a petition via fax on March 26, 2003, nearly 5 months ago, petitioning, not the Final Rejection, but the Examiners new position taken in his brief and requesting either revision of the Examiner's Answer to limit it to the art of

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record, or more preferably, the reopening of prosecution. A copy of this petition is attached.

More than a month later on April 30, 2003, no answer had been received and the PAIR records showed no receipt of the petition, so a status letter was filed by fax, a copy of which is attached.

Two months later, now three months after the filing of the original petition, no response had been received and the PAIR records still failed to show the previous filings. Therefore, applicants filed a formal Petition to the Petitions Group on June 29, 2003, a copy of which is attached.

To avoid inadvertent abandonment by the inaction of the Office, a request for Oral Hearing was filed by fax on July 8, 2003, as evidenced by the attached.

Then on August 8, 2003 a Decision on Petition was mailed stating "the finality of the final Office Action mailed January 30, 2002 was premature. Accordingly the finality of the last Office Action will be withdrawn." This did not address the petition regarding the Examiner's Answer and incorrectly identified the date of the Final Rejection. A copy of this paper is not attached, as it should be in your files.

Applicants therefore filed via fax a Request For Clarification on August 14, 2003, stating the above facts. A copy of this filing is attached.

This apparently resulted in the issuance of a further Decision on Petition that was undated and which now again deals with the Final Rejection by the correct date, but which has never been petitioned. Still no mention is made of the Examiner's Answer, which has been petitioned.

This second decision on an action not ever challenged, except for the appeal that has been filed, further states "The application is being forwarded to the examiner in charge for appropriate action." As noted above this second decision is undated.

However it was attached with a mailing from the Examiner dated August 14, 2003 and which includes a Notice of References Cited listing the five new citations in the Examiner's Answer and provides copies of them. Is this supposed to be the "appropriate action" of the Examiner that has been directed? It is assumed that the Examiner was expected to reopen prosecution and issue a fresh Office Action, but the two petition

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decisions are so incorrect applicants have no clue what action is required.

Applicants' attorney is available at the phone number listed below today and can be reached at (760) 200 5483 after 3:00PM EDT tomorrow or all day Friday August 22, 2003

Respectfully submitted,

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cc: Richard Seidel via fax